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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,261	11/20/2001	Eamonn P. Hobbs	ANGIO P-26	9573

7590  
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New York, NY 10152

09/12/2003

EXAMINER

SIRMONS, KEVIN C

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 09/12/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/989,261

Applicant(s)

HOBBS ET AL.

Examiner

Kevin C. Simons

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 30-34 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-27 and 37 is/are allowed.
- 6) ☒ Claim(s) 1,28,29,35 and 36 is/are rejected.
- 7) ☒ Claim(s) 2-6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of between the catheter assembly and the method claims in Paper No. 4 is acknowledged. The traversal is on the ground(s) that the public is better served by having all such related, although patentably distinct, claims in a single document examined. This is not found persuasive because applicant did not prove or provide an argument that the alternative use suggested by the examiner cannot be accomplished. (See MPEP 806.05(d))

Claims 30-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in Paper No. 4.

### ***Drawings***

The drawings are objected to because the wire does not appear to pass through surfaces of the tubes, but rather openings in the surfaces of the tubes. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 28, 29, 35 and 36 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 recites the limitation "the connected surfaces." There is insufficient antecedent basis for this limitation in the claim.

Claims 35 and 36 recite the limitation "said connected surfaces." There is insufficient antecedent basis for this limitation in the claim.

Claim 36 recites the limitation "the two portions." There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Meer U.S. Pat. No. 4,778,448.

Meer discloses a catheter assembly comprising: at least one tube (20), a companion member (15 and 15'), and an engagement member (20) connecting said tube and said companion member to one another along a zone (the examiner considers all of fig. 3A to be a zone) of said tube, said tube and said companion member extending proximal of said zone by an amount sufficient to extend out of the body of a patient in whom the catheter is embedded (figs. 3-4A),

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removal of said engagement member causing said tube and said companion member to disconnect and permit separate non-surgical withdrawal of said tube and said companion member from the patient (figs. 3-4A and col. 8, lines 8-50)

***Allowable Subject Matter***

Claims 2-6 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7-27 and 37 are allowable over the prior art of record.

The prior art of record does not disclose or render obvious at the time the invention was made a multiple tube catheter as claimed having a first and second tubes connected to one another at a zone and a wire extending longitudinally within the tubes passing **through the surfaces of the tubes at the zone to** hold the tubes together at the zone. In other words, the wire passes through the sidewalls of the tubes and not through an opening or port of the tubes.

Claims 28, 29, 35 and 36 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.


The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose or render obvious at the time the invention was made a multiple tube catheter assembly substantially as claimed having first and second wires extending longitudinally within the sidewalls of said tubes at said zone and **passing through the connected surfaces of said tubes to hold the tubes together at the zone.** In other words, the wire passes through the sidewalls of the tubes and not through an opening or port of the tubes.

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*Conclusion*

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kevin C. Sirmons whose telephone number is (703) 306-5410. The examiner can normally be reached on Monday - Thursday from 6:30 am to 4:00 pm. The examiner can also be reached on alternate Fridays.

  
Kevin C. Sirmons  
Patent Examiner  
9/3/03